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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO.   |
|---|-------------|----------------------|---------------------|--------------------|
| 10/602,466  | 06/23/2003  | Mark Davis           | 1070P3820           | 2623               |
| 53483   | 7590        | 11/27/2006           | EXAMINER            |                    |
| KACVINSKY LLC<br>C/O INTELLEVATE<br>P.O. BOX 52050<br>MINNEAPOLIS, MN 55402 |             |                      |                     | SMITH, CREIGHTON H |
|   |             | ART UNIT             |                     | PAPER NUMBER       |
|   |             | 2614                 |                     |                    |

DATE MAILED: 11/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/602,466             | DAVIS ET AL.        |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Creighton H. Smith     | 2614                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-49 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-13,16-30,33-45 and 48 is/are rejected.
- 7) Claim(s) 14,15,31,32,46 and 47 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____ .                                     |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>01.23.06 &amp; 03.28.06</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: ____ .                         |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-6, 12, 13, 16-24, 29, 30, 33-40, 48 & 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy, U.S. patent Publication #2004/0203977 in view of Carlson, U.S. Patent Publication #2004/0028199.

Kennedy discloses a computer-readable medium (see claim 66) that will establish communications with multiple communication devices in the form of a conference call, [0003], by selecting a multiparty call group – Abstract. Kennedy's computer, communication device, includes a display (104) and a GUI (106). In [0017] Kennedy discloses that soft keys are displayed in GUI (106) and those soft keys are used to implement some of the functions of buttons (109). In [0018], Kennedy discloses that that display (104) or GUI (106) may be used to present a menu (125) to a user to select between different options or functions to be performed on the communication device (100). Menu (125) may include a multi-party call feature (126). The user may use the scroll buttons (110) and (112) to scroll between the menu items, such as the multi-party call feature (126). Therefore, a group of potential conferees is selected by using the phones GUI. Even though Kennedy discloses in [0025] that a conference between all the members of a multi-party call group can be established simultaneously without having to individually dial the phone numbers of each member separately, Kennedy does disclose in [0003] that it is well known to establish a conference call among a

plurality of participants by separately/individually calling each member of the conference call. Kennedy does not disclose applicant's step of updating the contact information of each of the conference's participants during the conference's set-up phase. However, Carlson does disclose this step in [0033], where Carson discloses that participant status information is then transmitted to other participants. To have provided Carlson's teaching of providing the call status of each of the participants of a conference call into Kennedy's conference calling system and method would have been obvious to a person having ordinary skill in the art, because the person possessing ordinary skill in the teleconferencing art will readily recognize that both Kennedy and Carlson are perfecting different techniques in a conference call, and the elements of one inventors conference call can easily be incorporated into the another conference call. For claim 3, see Carlson's Fig. 7, under "Participant 746". For claim 16, it is inherent that if one is attempting to get another participant into a conference that the conference originator will keep trying to get the other participants to answer the phone by re-dialing them.

Concerning claim 18, see [0025] of Kennedy, 2<sup>nd</sup> to last sentence.

Claims 7-11, 25-29, 41-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy in view of Carlson as applied to claim 1 above, and further in view of Knappe et al '168.

Knappe et al disclose a conference call between multiparties, with the additional ability of certain conferees to participate in a sidebar (private conversation) by muting/attenuating, col. 1, lines 60-67, their audio streams to the other participants of the conference. To have provided Knappe et al teaching of having a private sub-

conference in Kennedy's conferencing method would have been obvious to a person having ordinary skill in the art, because both references are concerned with teleconferencing and the skilled practitioner will readily realize that the elements of one teleconferencing invention could easily be incorporated into another teleconferencing invention.

Claims 14, 15, 31, 32, 46 & 47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Biby et al., and Plahte et al

Any inquiry concerning this communication should be directed to Creighton H. Smith at telephone number 571/272-7546.

15 NOV '06



Creighton H Smith  
Primary Examiner  
Art Unit 2614